

 State of Missouri Department of Mental Health Contract Amendment	Contract #: XXX State Vendor Number: XXX	Div DD
		Fac
Contractor: XXX XXX XXX	Contract Description: DD Services Amendment Description: Contract Revisions Effective Date: August 1, 2016	

The above referenced contract between **XXX** and the Department of Mental Health is hereby amended as follows:

1. Paragraph 2.1.3 and subparagraphs are deleted in their entirety and replaced as follows:
 - 2.1.3 Billable services shall include those services listed on the Pricing Page, attached hereto, as provided in accordance with the requirements and limitations specified in the Non-Waiver Services Definitions attached hereto as Attachment B and the Mo HealthNet DD Waiver Manual which can be located at:
http://manuals.momed.com/collections/collection_dmh/print.pdf.
 - a. The Department reserves the sole right to make changes, additions, deletions or other specific modifications to the aforementioned Attachment B: Non-Waiver Service Definitions and the Mo HealthNet DD Waiver Manual.
 - b. The Department reserves the right to make Attachment B: Non-Waiver Service Definitions, and the Mo HealthNet DD Waiver Manual and any updates thereof, available to the contractor in an online format.
2. Paragraph 2.5.1 is deleted in its' entirety and replaced as follows:
 - 2.5.1 Contractor staff utilized in the provision of services must be appropriately trained, licensed, certified and/or credentialed, as specified in Attachment B: Non-Waiver Service Definitions and the Mo HealthNet DD Waiver Manual, as applicable.
3. Section 3 is deleted in its' entirety and replaced by the attached.
4. This amendment shall be effective August 1, 2016. All other terms and conditions shall remain unchanged.

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***In witness thereof, the parties below hereby execute this agreement.***

\_\_\_\_\_  
 Authorized Signature for the Contractor

\_\_\_\_\_  
 Title

\_\_\_\_\_  
 Date

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Authorized Signature for the Department of Mental Health

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Date

## **Specific Performance Requirements**

### **3.1 Medicaid Requirements**

- 3.1.1 Certain services provide by the contractor may be included under one of the 1915(c) Home and Community Based Services Medicaid Waiver programs (waivered services) for individuals with mental retardation or other developmental disabilities. Therefore, any waived services provided by the contractor shall be subject to all applicable Medicaid regulations, rules and requirements.
- 3.1.2 The contractor must be enrolled as a DD Home and Community Based (HCB) Services Medicaid Waiver provider prior to the delivery of waived services and throughout the contract period, except when such waived service is provided by the contractor as a subcontractor under an Organized Health Care Delivery System (OHCDS) arrangement.
- 3.1.3 The contractor shall ensure the delivery of waived services complies with the Federal Rule 42 CFR 441.301, also referenced as the Home and Community-Based Services (HCBS) Waiver Rule.
- 3.1.4 The contractor shall have all licenses/accreditation's/certifications required by the DD HCB Medicaid Waiver, as applicable.
- 3.1.5 The contractor shall not subcontract for the provision of waived services unless the contractor is designated by the Department as an Organized Health Care Delivery System (OHCDS) and is in compliance with 42 CFR, Part 434 and 45 CFR, Part 74.

### **3.2 Service Authorizations**

- 3.2.1 The contractor shall provide services upon receipt of authorization from the Department.
- 3.2.2 The contractor understands and agrees that the Department reserves the sole right to:
  - a. Specify the process that will be utilized to authorize delivery of services to a consumer;
  - b. Specify the number of units and or/frequency of services, dollar amounts and other authorization limits;
  - c. Adjust or terminate authorizations; and
  - d. Resolve any dispute related to authorizations.
- 3.2.3 The contractor may decline to provide services to a consumer for any reason within ten (10) calendars days after the service authorization is issued by notifying the RO, in writing, of such decision to decline.
- 3.2.4 The contractor shall not terminate services to a consumer without thirty (30) days prior written notice to the consumer, Support Coordinator, and RO, unless an earlier date is mutually agreed upon.

### **3.3 Service Delivery Staff**

- 3.3.1 Contractor staff providing services must meet the training and educational requirements specified in the service definition of the particular service being provided, as required in Attachment B: Non-Waiver Service Definitions and the Mo HealthNet DD Waiver Manual.
- 3.3.2 The contractor shall maintain employee files which document, at a minimum, the employee's:
  - a. Name;
  - b. Date hired;

- c. Current hourly pay rate or salary;
  - d. Highest level of education completed or passage of the General Education Requirements (GED);
  - e. Completion dates of training courses; and
  - f. Criminal history background check results in compliance with 42 CFR 447.10.
- 3.3.3 In the event the contractor is providing services which require licensure, certification or accreditation, the contractor shall provide Professional Manager Oversight services for all consumers.
- 3.3.4 The contractor shall notify the RO immediately if the Professional Manager position becomes vacant or if, for any reason, Professional Manager service cannot be provided.
- a. Upon such notification to the Department, the contractor shall submit an interim plan which describes how Professional Manager oversight needs will be met. Such interim plan shall be subject to Department approval and acceptance.
  - b. In order to ensure the health and safety of consumers and the training/supervision needs of contractor staff, the Department may require the utilization of a temporary Professional Manager.
- 3.3.5 The Department reserves that right to review the contractor's employee files documentation.
- 3.3.6 The contractor shall submit copies of changes or amendments to licenses, certification, accreditation, or other professional qualifications of professional staff, to the RO on the contract renewal date or upon request. This shall include any adverse actions taken on licenses, certifications or accreditations.
- 3.3.7 All staff employed to carry out the provisions of this contract shall meet the training and educational requirements as specified in service definition of the particular service being purchased, as noted as in Attachment B: Non-Waiver Service Definitions and the Mo HealthNet DD Waiver Manual.
- a. All staff providing residential or day habilitation, out-of-home respite, or agency-based personal assistance services shall have completed training in preventing, detecting, and reporting of abuse/neglect, prior to providing direct care, and shall repeat the training every two (2) years. Staff must also have current certification in a competency based CPR and First Aid course.
  - b. Staff may provide direct care while obtaining required CPR/First Aid, Emergency Intervention, Medication Administration training as long as there is one fully trained staff on duty during each shift at each service delivery location.
- 3.3.8 In addition to requirements outlined in Attachment B: Non-Waiver Service Definitions and the Mo HealthNet DD Waiver Manual, all employment support professionals who provide Community Employment, Job Preparation, Job Discovery, Career Planning, Prevocational Services, Job Development or Supported Employment services must complete fourteen (14) hours of Division approved formal training plus an additional six (6) hours of supervised practical (mentoring) training related to their job duties within the first twelve (12) months of their date of hire. Annually thereafter, all such employees must complete four (4) hours of Division approved training.
- a. Division Approved Formal Training:
    - 1. College of Employment Services- a web-based series of training modules designed for employment support professionals. This approved training option is available at no cost to the provider and registration is completed by contacting a Regional Office Employment First Specialist
    - 2. Association of Community Rehabilitation Educators (ACRE) -Any certificate of completion and assigned contact hours from a curriculum approved by ACRE will qualify. The cost associated with accessing ACRE approved training is the responsibility of the service provider.
    - 3. Association of People Supporting Employment First (APSE) -Any certificate of completion which lists contact hours approved by APSE will qualify.

4. Institutions of Higher Education -College courses or training specific to the delivery of employment services which result in the awarding of either college credit or a certificate of Continuing Education Unit (CEU) issued from an institution of higher education which is either accredited by the Council on Rehabilitation Education (CORE) or a University Center for Excellence in Developmental Disabilities (UCEDD) will qualify.

b. Contractor Provided In-Service Training:

1. In addition to the division approved formal training, the contractor may provide training which has been approved as outlined in 3.3.8(b).
2. If a service provider would like the opportunity to provide or develop internal staff training, an arrangement is in place wherein Maryville University will review and approve internally developed curriculum at no cost to the provider.
  - aa. For those providers wishing to provide internally developed training, a Training Curriculum Review Rubric is available on the Division website:  
<http://dmh.mo.gov/dd/progs/youthtransitionemploymentcoortoolsresources.html>
  - bb. A copy of the curriculum, qualifications of the trainers and a completed Training Curriculum Review Rubric must be submitted to the Division Director of Youth Transition and Employment.
  - cc. The Division Director of Youth Transition and Employment will submit the requested information to Maryville University for review.
  - dd. Correspondence will be sent to the service provider advising if the curriculum is approved.
  - ee. If approved, this correspondence must be maintained by the service provider's Human Resource Manager (or equivalent).
  - ff. If approved, internally developed training curriculum can be provided for up to three (3) years from the date of approval before needing to be re-submitted for review.

c. Documentation and Monitoring of Qualifications:

1. New employees who are able to demonstrate the following:
  - aa. They have completed a minimum of fourteen (14) hours of formal training in one of the approved training sources outlined in 3.3.8 (a) since July 1, 2011; and
  - bb. Can provide documentation of both the formal and practical (mentoring) training completed.
2. Or, any individual employee who earns and maintains the designation of either:
  - aa. Certified Employment Support Professional (CESP) by passing the national CESP examination from the Employment Support Professional Certification Council (ESPCC) or,
  - bb. Individuals who have earned a National Certificate of Achievement in Employment Services after July 1, 2010 from the Association of Community Rehabilitation Educators (ACRE).
  - cc. Practical training (mentoring) documentation elements must include: Date of practical training, content of training, time period and signatures of verification from both the trainee and the trainer.
  - dd. Formal training documentation elements must include: Training title, completion date and the amount of contact hours/continuing education units.

### 3.4 Documentation of Services

- 3.4.1 The contractor shall document the provision of authorized services and consumer progress.

- 3.4.2 The contractor shall document and maintain records of services provided. In the event the contractor provides waived services, the contractor shall document and maintain records of waived services in accordance with any Medicaid requirements. Service records shall be provided to the Department, as requested, and shall include, but are not limited to:
- a. the service type and number of units provided;
  - b. the activity related to the personal plan;
  - c. the date of service and the start and end times;
  - d. the name of the staff person providing the service;
  - e. the name of the consumer receiving services;
  - f. the location where services were provided;
  - g. the signature and title of the program supervisor/provider; and
  - h. other information deemed necessary by Department.
- 3.4.3 The contractor shall document and submit consumer progress reports to the RO on at least a monthly basis. Progress reports shall include, at a minimum, the service(s) provided, the time period covered in the report, an assessment of consumer progression specific goals and objectives as documented in the consumer's personal plan, the signature and title of the person completing the report (QDDP) and any other information required by Department.
- a. The contractor shall submit consumer progress reports at other times, as required by the RO.
  - b. The contractor shall participate in the review of consumer progress with the RO, as required, and shall provide input regarding individual Plans of Care as requested.

3.5 **Residential Service Delivery**

- 3.5.1 In the event the contractor is providing residential services, the contractor shall provide quality care and oversight to consumers and implement those portions of the consumer's Plan of Care which are approved by the RO.
- 3.5.2 In the event the contractor is providing residential services, the contractor shall assist in the formulation, implementation and evaluation of consumer Plans of Care as requested by the RO. The contractor and appropriate direct contact staff shall attend the consumer's annual personal plan conference as requested by the RO.
- 3.5.3 In the event the contractor is providing residential services, the contractor shall obtain an annual physical examination for each Department consumer receiving services.
- a. The contractor shall arrange for the annual exams within timeframe specified by the RO.
  - b. The contractor shall include a record of the examinations in the consumer's chart.
  - c. In the event a consumer is not Medicaid-eligible, the cost for physical examinations and other physician services shall be considered reimbursable ancillary services, subject to the prior approval/authorization of the RO.
  - d. The contractor shall arrange for additional physical examinations as authorized by the RO.
- 3.5.4 In the event the contractor is providing residential services, the contractor shall provide consumers with appropriate opportunities for leisure activities and recreational programming.
- 3.5.5 In the event the contractor is providing residential services, the contractor shall provide the RO with an emergency contact person and phone number which shall be answered twenty-four (24) hours per day, seven (7) days per week.
- 3.5.6 In the event the contractor is providing residential services, the contractor shall prepare and serve foods that are reflective of individual needs, choices and preferences. The contractor shall obtain, store, prepare, and serve food in a sanitary manner to prevent food borne illness and assure the nutritive value of the food.
- 3.5.7 In the event the contractor is providing residential services, the contractor shall ensure the temperature of water accessible to consumers does not exceed 120 degrees Fahrenheit. To ensure the safety of the consumers, the contractor shall have a policy, procedure, or guideline related to management of water

temperatures, including periodic measurement, documentation of temperature measurements, and corrective action take for any readings exceeding 120 degrees Fahrenheit.

- 3.5.8 In the event the contractor is providing residential services, excluding ISL services, the contractor shall provide, without additional reimbursement, personal hygiene, grooming and first aid supplies such as, but not limited to: linens, towels, shampoo, soap, brushes, toothpaste, lotion, sanitary napkins, and band aids.
- 3.5.9 The Department reserves the right to remove any or all of its consumers, withdraw financial support for any or all of its consumers and/or terminate this contract without notice when, in the Department's sole judgment, the health and welfare of its consumers are threatened by their continued presence in the contractor's facility.
- 3.5.10 When it becomes apparent to the contractor, the RO or the TCM provider that the health or welfare of the consumer is jeopardized by continued services with the contractor, the contractor shall:
  - a. if a medical emergency, seek immediate emergency medical care/treatment for the consumer followed by immediate notification to the RO and TCM provider. If the treatment services require the individual to temporarily leave their residential placement, such as admission to a hospital or other temporary treatment setting, the residential contractor shall transition the individual back to the residential placement when the individual is ready for discharge. After the individual is transitioned back to their residential placement, the residential contract provider shall not terminate services to a consumer without thirty (30) days prior written notice to the RO, unless an earlier date is mutually agreed upon in writing by the RO, TCM provider and residential contract provider.
  - b. if not a medical emergency, notify the RO and TCM provider of their concerns and intent to terminate services to the consumer. The residential contractor shall not terminate services to a consumer without thirty (30) days prior written notice to the RO, unless an earlier date is mutually agreed upon.
- 3.5.11 The contractor shall immediately notify the RO when there is:
  - a. a significant, unanticipated deterioration in a consumer's physical or mental condition; or
  - b. an unexplained absence of a consumer.
- 3.5.12 In the event the contractor is providing residential services from a property or premises not owned the contractor, the contractor shall secure a legally binding written agreement from the property owner (landlord) requiring the landlord to provide sixty (60) days advance notice to the contractor before evicting or otherwise requiring the contractor to quit the premises. A property lease or other agreement which includes the above notice provisions may be provided in lieu of the statement.
  - a. In the event the contractor receives notice from the landlord to quit the premises, the contractor shall forward such notice to the RO within 24 hours of receipt.
- 3.5.13 The contractor shall not transfer a consumer to another place of residence without the prior written consent of the RO.
- 3.5.14 The contractor shall assist the RO with the relocation of a consumer, as required. Such coordination may include, but is not limited to, arranging or providing transportation and assisting the consumer with preparation to relocate.
- 3.5.15 In the event the contractor provides residential services and has a vacancy, the contractor may backfill the vacant bed(s) with private pay consumer(s) only if the following requirements are met:
  - a. The contractor must conduct sufficient checks and screenings that will ensure the safety of the DD consumers;
  - b. The contractor may not charge the private pay consumer less than the current per diem rate established for the DD consumers;
  - c. Staffing ratios, established for the DD consumers, shall not be compromised as a result of the presence of the private pay consumer(s); and

- d. In the event the contractor is at full bed capacity, including any private pay consumer(s), and the RO places a consumer, the contractor shall, within ten (10) calendar days, either make other arrangements for the private pay consumer(s) or refuse the DD placement.

3.5.16 In the event the contractor provides group home services in group homes or residential centers, the contractor shall maintain appropriate levels of staff according to the following Division of Developmental Disabilities residential levels-of-care model:

| Residential Facility Category | Description per 9CSR 454.010(1)(O)                                                                                                                                                                   | Staffing Ratio                             | Degreed Professional Manager                     | Characteristics of Persons Served                                                                                                                                                                                                |
|-------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|--------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Category I                    | Facility designed to provide a group living environment and minimum level of habilitation and supervision for persons with no severe medical needs or maladaptive behaviors.                         | 1:8 (Day)<br>1:8 (Evening)<br>1:16 (Night) | Minimum of 1.66 hours per week per person served | Person with mild to moderate levels of adaptive functioning, who are ambulatory, or mobile non ambulatory, have basic self-help skills but may need minimal assistance or prompting with daily living skills.                    |
| Category II                   | Facility designated to provide a group living and habilitation environment for persons with no severe medical needs or severe maladaptive behaviors but who need self-help or habilitation training. | 1:4 (Day)<br>1:4 (Evening)<br>1:8 (Night)  | Minimum of 2.50 hours per week per person served | Persons with moderate to severe levels of adaptive functioning, who are ambulatory or mobile non ambulatory, and need training in basic self-help skills, socialization and daily living skills.                                 |
| Category III (Specialized)    | Specialized facility designed to provide a habilitation environment for persons with intensive physical or medical needs, severe adaptive behaviors or other specialized care needs.                 | 1:3 (Day)<br>1:3 (Evening)<br>1:6 (Night)  | Minimum of 2.50 hours per week per person served | Persons with various levels of adaptive functioning who are non ambulatory and unable to provide for their own needs or who are ambulatory/non-ambulatory with intensive medical/physical needs or severe maladaptive behaviors. |

3.5.17 Providers of residential supports who provide services in semi-independent living (SIL) arrangements, shall maintain appropriate levels of staff sufficient to meet the needs of the individuals being served. Staffing plans deemed appropriate and sufficient are approved by the regional office using an individualized supported living budget. The budget shall reflect the approved staffing plan.

### 3.6 **Community RN Requirements**

3.6.1 In the event the contractor is providing residential services, the contractor shall provide nursing oversight services for all residential consumers. Nursing oversight shall be provided by Registered Nurses (RNs) licensed and in good standing in the state of Missouri.

3.6.2 The contractor and all RNs utilized by the contractor shall participate in the Community RN Program orientation training and any subsequent mandatory program update training(s).

- Within ninety (90) days of the contract effective date, the contractor must complete the state-sponsored orientation training.
- Any RN(s) utilized by the contractor must complete the state-sponsored orientation training within ninety (90) days of hire, whether employed by or contracted with the contractor.

3.6.3 Nursing oversight activities shall include, but are not limited to:

- regular monthly nursing functions specified by the Department for each consumer;
- collaboration with designated Department staff in the implementation of statewide health and safety initiatives;
- review and analysis of event reports for medication errors and injuries; and
- completion of a Monthly Health Summary for each consumer.

- 3.6.4 The contractor shall review the RN's Monthly Health Summary as part of the consumer's monthly service review and address any issues identified by the RN.
- 3.6.5 In the event the contractor is providing residential habilitation (group home) services, the contractor's residential rate shall be predicated, in part, on the utilization of 1.25 hours per month per consumer for Community RN services.
- a. The contractor shall account for Community RN service hours separately from any other service hours for which the RN may be employed by the provider and shall provide such accounting to the Department, as requested.
  - b. The contractor's total required Community RN services hours may be combined and distributed within the contractor's agency based on individual needs as long as all required monthly functions are met for each consumer.
- 3.6.6 In the event the contractor is providing Individualized Supported Living (ISL), 1.25 hours per month per consumer for Individual Supported Living Monthly Registered Nurse Oversight services shall be authorized separate from ISL budget authorization.
- a. The contractor shall account for Individual Supported Living Monthly Registered Nurse Oversight service hours separately from any other service hours for which the RN may be employed by the provider and shall provide such accounting to the Department, as requested.
  - b. A minimum of 30 minutes per month must be provided to each individual.
  - c. Individual Supported Living Monthly Registered Nurse Oversight service hours may not be combined and distributed within the contractor's agency.
- 3.6.7 The contractor shall notify the RO immediately if the Community RN position becomes vacant or if, for any reason, nursing oversight services cannot be provided.
- a. Upon such notification to the Department, the contractor shall submit an interim plan which describes how nursing oversight needs will be met. Such interim plan shall be subject to Department approval and acceptance.
  - b. In order to ensure the health and safety of consumers and the training/supervision needs of contractor staff, the Department may require the utilization of a temporary nurse.
- 3.6.8 In the event the Department determines the contractor has failed to provide appropriate nursing oversight, the Department reserves that right to recover the applicable portion of the residential rate and /or cancel the contract.
- 3.7 **Emergency Medical Care and Do Not Resuscitate Orders**
- 3.7.1 The contractor shall administer or obtain immediate emergency medical care whenever the withholding of such care may result in bodily injury or jeopardize the life of a client, except when authorized to implement a "Do Not Resuscitate" (DNR) order for such client for a specific terminal condition.
- 3.7.2 In accordance with the Department's statutory mission to habilitate, treat, or rehabilitate its consumers, the contractor shall not withhold or withdraw:
- a. food, hydrations, antibiotics or anti-seizure medication for the purpose of ending life;
  - b. psychotropic drugs essential to treatment of mental illness that are otherwise authorized by law or Department rule;
  - c. any medication, medical procedure or intervention that, in the opinion of facility staff, is necessary to prevent the suicide of a resident or patient; or
  - d. CPR or other emergency intervention without a non-hospital DNR order authorized for use in a Department-operated facility or the contractor's facility.
- 3.7.3 In the event a consumer has a terminal condition and a non-hospital DNR order is desired, the consumer and/or legally responsible person must obtain a Department "Statement of Terminal Condition" form for completion by their attending physician.



- a. For purposes of this contract, a terminal condition is defined as “an incurable or irreversible condition which, in the opinion of the attending physician, is such that death will occur within a short time regardless of the application of medical procedures” (RSMo.459.010). “Death within a short time” is defined as within six (6) months, in accordance with the Missouri Hospice definition.
- b. The completed form shall be and submitted to the Department for authorization by the Department’s Medical Director, or designee.
- c. Once authorized, a non-hospital DNR order may be obtained by the contractor for implementation in its facility.
- d. The contractor should inform consumers and their families about available hospice services.
- e. The health status of the consumer shall be continually reviewed with documentation by the attending physician specific for the anticipated, imminent cause of demise.
- f. If a non-hospital DNR order is needed beyond six (6) months, the status must be reviewed by the Department of Mental Health Medical Director or designee.
- g. In the event a non-hospital DNR order is rescinded, or when a terminal diagnosis is changed, the contractor shall implement the change and immediately notify the RO.

3.7.4 In the event the consumer’s current condition is not terminal but is such that CPR would cause more harm than good to the individual and substantially compromise his or her well-being, the planning team and attending physician shall determine what emergency medical care is needed.

- a. An attending physician will define the appropriate emergency medical care on the Alternative to CPR form and it shall be integrated into the person-centered plan and staff shall be trained by a medical professional to competently carry out the orders accurately.

3.7.5 Prior approval for the provision or the obtainment of emergency medical care for Department clients is not required. The contractor shall immediately notify the RO whenever there is a medical emergency. Any follow-up medical services relating to such emergency shall require the prior approval of the RO.

### 3.8 **Management of Consumer Property**

3.8.1 Money belonging to consumers receiving residential services, which is held by the contractor, shall be held in trust for the consumer(s). Such money held in trust shall not be commingled with any contractor funds.

3.8.2 The contractor shall maintain records, on a cash basis, of receipts and disbursements by or on behalf of individual consumers.

- a. For each individualized supported living resident, the contractor shall maintain a record of personal spending monies and a separate record for all other monies (rent, utilities, and any other funding).

3.8.3 The contractor shall not charge the consumer’s personal funds for any expenses which the contractor is obligated to provide under this contract or for items or services not clearly set out in 9 CSR 25-5.010 nor shall the contractor use money of one consumer to defray the expenses of another consumer.

3.8.4 The contractor shall not charge the consumer for the maintenance of a consumer’s personal account. The contractor may, however, charge consumer personal accounts for bank check writing charges.

- a. Allowable bank charges shall not include charges for check overdrafts.
- b. The contractor may allocate bank charges to consumer personal accounts based on the number of personal accounts comprising the bank balance.
- c. The contractor understands and agrees that the Department assumes no responsibility for deficit spending of consumer accounts.

3.8.5 The contractor shall report quarterly, or more frequently if required by the RO, the account balance of each consumer. At no time shall the personal spending account balance be in excess of \$200.

3.8.6 The contractor shall not purchase property from a consumer’s personal spending account which will not provide meaningful benefit to the consumer.

- a. Any consumer purchase of \$100 or more shall require prior written approval of the RO.

- b. Property purchased for a consumer should be kept in the consumer's immediate living area, if practical. If it is not practical to keep a consumer's property in the consumer's immediate living area, the consumer's property shall be kept in an area easily accessible to the consumer, and shall not be used by anyone else without the permission of the consumer.
- c. Unless otherwise agreed to in writing by the consumer or other responsible person, all property purchased for the consumer shall clearly bear the consumer's personal identification. In any event, all personal property purchased for the consumer shall be clearly enumerated in the consumer's personal inventory listing.

3.8.7 The contractor shall immediately notify the RO when any discrepancy is discovered relating to consumer funds or property.

3.8.8 Within thirty (30) days after the death or transfer of a consumer, the contractor shall coordinate the disposition of the consumer's funds and personal property with the RO.

### 3.9 **Consumer Rights**

3.9.1 The contractor shall not limit the rights of a resident or consumer, as defined in RSMo. 630.115, and shall exercise diligence to protect a consumer's rights in accordance with federal and state statutes, regulations and Department rules and guidelines.

3.9.2 The contractor shall comply with RSMo. 630.120 and shall not presume that residents and consumers are incompetent or limit their rights, responsibilities or obligations of citizenship as a consequence of receiving evaluation, care, treatment, habilitation for mental retardation or other developmental disabilities.

3.9.3 The contractor may limit consumer rights as specified in RSMo. 630.110 only if exercising these rights would be inconsistent with the person's therapeutic care, treatment, habilitation or rehabilitation. The determination of inconsistency shall be made only when the consumer is a clear danger to themselves, others or community property and shall only be made jointly by the contractor and the RO.

### 3.10 **OHCDs**

3.10.1 In the event the contractor is designated by the Department as an Organized Health Care Delivery System (OHCDs) the contractor shall comply with the requirements specified in this section.

3.10.2 As an OHCDs, the contractor shall assure its full compliance with terms and conditions specified in this contract.

3.10.3 The contractor (also referred to in this section as OHCDs) shall directly provide at least one Medicaid-covered service with its own employees and shall assure that its employees, who provide a Medicaid service, shall satisfy state minimum qualifications for the specific service provision.

3.10.4 The contractor understands and agrees that all services provided under the Home and Community Based Services Medicaid Waiver will be provided in accordance with the individual's plan of care as developed by his or her interdisciplinary planning team. The contractor shall be responsible for coordinating services with the planning team.

3.10.5 As allowed under the Medicaid Home and Community Based Services Waiver, the OHCDs may subcontract for certain services, subject to the requirements specified herein.

a. As authorized by the RO, the OHCDs may sub-contract for the services listed below:

1. Adaptive Equipment/Specialized Medical Equipment and Supplies
2. Assistive Technology
3. Behavior Analysis
4. Behavior Therapy
5. Career Preparation
6. Communication Skills Instruction
7. Community Employment/Supported Employment
8. Community Specialist
9. Counseling

10. Crisis Intervention
11. Day Service/Day Habilitation
12. Dental
13. Group Home
14. Home Modification
15. Host Home
16. Individualized Supported Living
17. Job Discovery
18. Job Preparation
19. Occupational Therapy
20. Personal Electronic Safety Device
21. Personal Assistance
22. Physical Therapy
23. Positive Behavior Support
24. Professional Assessment and Monitoring
25. Respite (In-Home and Out-of-Home)
26. Speech/Language Therapy
27. Support Broker
28. Transportation

- b. In the event the contractor subcontracts for any service listed above, the contractor shall ensure that the subcontractor meets all of the qualifications required in the waiver for that particular service.
  1. The contractor shall verify any required licensure, certification, accreditation, and certification of good standing with the Secretary of State.
  2. The contractor shall conduct a background screen of any subcontractor providing any of the services listed above, including Family Care Safety Registry, FBI check, and the Office of Inspector General Medicare and Medicaid exclusion list. In the event a subcontractor is already directly enrolled with MO HealthNet to provide any other state plan or waiver services, they shall be deemed to have met all provider requirements for provision of the DD waiver service.
- c. The contractor shall ensure that the subcontractor documents any and all services, authorized by the Regional Office, in accordance with the documentation requirements specified in 13 CSR 70-3.030 (2) (a).
- d. All sub-contracts which the OHCDS enters into must include:
  1. Assurances that all employees of the sub-contractors providing a Medicaid service shall meet Department minimum qualifications for service provision;
  2. Provisions that define a sound and complete procurement contract per 42 CFR, Part 434 and 45 CFR, Part 74, Appendix G, except that the sound and secure procurement system shall not be any form of competitive bid;
  3. Identification of the population covered by the sub-contract;
  4. Relevant procedures for enrollment or reenrollment of the covered population;
  5. Provisions that the state Medicaid Agency, the Department of Health and Human Services (HHS) and the Department may evaluate, through inspection or other means, the quality, appropriateness and timeliness of services performed;
  6. Procedures and criteria for terminating the sub-contract, including a requirement that the sub-contractor promptly supply all information necessary for the reimbursement of any outstanding Medicaid claims;
  7. Provisions that the subcontractor maintains an appropriate record system for services to enrolled recipients;
  8. Provisions that the subcontractor safeguards information about recipients as required by 42 CFR, part 431, subpart F and state laws;
  9. Activities to be performed by the subcontractor that relate to third-party liability requirements in 42 CFR, part 433, subpart D;

10. Identification of the services to be provided;
11. Provisions that the OHCDs and the Department reserve the right to review, approve, and monitor the subcontractor's compliance with all rules and requirements applicable to the Medicaid Services/Supports provided, and compliance with the applicable sections of 42 CFR Part 434; and
12. Provisions assuring that the subcontractor will observe and guarantee the free choice of the client to obtain services from any qualified provider.

3.10.6 The contractor shall not invoice the Department more than the cost paid to the subcontractor by the OHCDs for the service.

3.10.7 The OHCDs shall document the consumer's free choice of providers for waiver services delivered to him/her by the OHCDs, or its subcontractors.

### 3.11 **Emergency Intervention, Restraint, and Seclusion Time Out**

3.11.1 Contractor direct care staff must be trained in an emergency intervention system approved by the Director of the Division of Developmental Disabilities or designee, when the need is identified in a consumer's Individual Support Plan.

- a. Currently, the approved emergency intervention systems include *The Mandt System®* and *The Nonviolent Crisis Intervention®* program developed by the Crisis Prevention Institute (CPI).
- b. Any request from the contractor to utilize an alternative emergency intervention system must be made in writing to the Division of DD and must include reasons why the alternative system is necessary.

3.11.2 The contractor shall be prohibited from using mechanical restraints in Home and Community Based settings.

- a. For purposes of this contract, "mechanical restraints" shall mean any:
  1. Device, instrument or physical object used to confine or otherwise limit an individual's freedom of movement that he/she cannot easily remove.
- b. In exceptional circumstances the Division Director, or designee, may approve the use of mechanical restraints for an individual with in the context of a Behavior Support Plan with ongoing behavioral services and ongoing review by the Regional Behavior Support Review committee.

3.11.3 The contractor shall not utilize any restraint procedure associated with a high risk of harm.

- a. For purposes of this contract, "procedures considered at risk for harm", shall include, but not necessarily be limited to the following:
  1. Physical restraint techniques that interfere with breathing; or any strategy in which a pillow, blanket, or other item is used to cover the individual's face as part of a reactive strategy;
  2. Prone restraints (on stomach); restraints positioning the person on their back supine, or restraint against a wall or object;
  3. Restraints which involve staff lying/sitting on top of a person;
  4. Restraints that use the hyperextension of joints;
  5. Any technique or modification of a technique which has not been approved by the Division, and/or for which the person implementing has not received Division-approved training;
  6. Mechanical restraints are prohibited from use in Home and Community Based settings;
  7. Any reactive strategy that may exacerbate a known medical or physical condition, or endanger the individual's life or is otherwise contraindicated for the individual by medical or professional evaluation;
  8. Containment without continuous monitoring and documentation of vital signs and status with

respect to release criteria;

9. Use of any reactive strategy on a “PRN” or “as required” basis. Identification of safe procedures for use during a crisis in an individual’s safety crisis plan is not considered approval for a restraint procedure on an as needed basis. );
10. Standing orders for use of restraint procedures – unless part of a comprehensive safety crisis plan that delineates prevention, de-escalation and least restrictive procedures to attempt prior to use of restraint;
11. Any procedure used as punishment, for staff convenience, or as a substitute for engagement, active treatment or behavior support services;
12. Restrictive supports such as manual, chemical or mechanical restraints, calling the police or hospitalization as procedures that cannot be utilized as a PRN procedure in a behavior support plan or as a contingency to produce a reduction or elimination of behaviors. Identifying one or more of these in a safety crisis plan as potential responses to dangerous situations in which less restrictive strategies have failed is not considered as a PRN procedure;
13. Reactive strategy techniques administered by other individuals who are being supported by the agency;
14. Corporal punishment or use of aversive conditioning– Applying painful stimuli as a penalty for certain behavior, or as a behavior modification technique;
15. Overcorrection strategies – Requiring the performance of repetitive behavior as a consequence of undesirable behavior designed to produce a reduction of the frequency of the behavior;
16. Placing persons in totally enclosed cribs or barred enclosures other than cribs; and
17. Any treatment, procedure, technique or process prohibited elsewhere by federal or state statute.

3.11.4 The contractor shall not practice the use of restrictive interventions, which are interventions that restrict participant movement, participant access to other individuals, locations or activities restrict participant rights or employ aversive methods, for the purpose of modifying behavior. The contractor shall not utilize restrictive procedures as an emergency or crisis intervention.

3.11.5 The contractor shall monitor and act to reduce the likelihood that an individual will require reactive strategies.

- a. The contractor will develop and implement policy, process and strategies the threshold criteria for reactive strategy usage.
- b. The contractor will refer individual support plans and behavior support plans that include reactive strategies to the Regional Due Process Committee and the Regional Behavior Support Review committee.
- c. The contractor shall seek additional services, such as applied behavior analysis, at the recommendation of the Regional Behavior Support Review committee.

3.11.6 The contractor shall limit techniques used to physically restrain individuals to those that are from nationally recognized physical crisis management programs.

3.11.7 The contractor shall ensure chemical restraints are only used in situations of imminent harm to prevent an individual from injuring self or others and only as part of an approved safety crisis plan.

3.11.8 The contractor shall not utilize seclusion time out (safe room) procedures without the written approval of the Division’s Chief Behavior Analyst.

- a. Seclusion time out shall require ongoing applied behavior analysis services and a current behavior support plan.
- b. staff who implement seclusion time out shall be competency trained in the use of the strategies in the behavior support plan including the seclusion time out process.

### 3.12 **Audio and Video Surveillance**

3.12.1 The contractor shall not implement audio and/or video surveillance in the interior of service sites without written permission from the Department, unless the audio/video equipment is approved and funded by the Department through remote supports.

- a. The contractor shall submit to the Department a detailed plan which outlines the following:
  1. Purpose of the surveillance equipment;
  2. Location of the surveillance equipment;
  3. Location of the video feed and assurance that it is not viewable to the general public/visitors at the service site;
  4. The agency policy which includes the process to obtain informed consent from the individuals served and their guardian(s) prior to implementation and at least annually thereafter;
  5. Maintenance, storage and destruction of information;
  6. Who may access the video feed and how to obtain access;
  7. A description of the system utilized and assurance that the information is contained in a closed circuit; and
  8. Assurance that the individual(s) is afforded due process.
- b. If the surveillance equipment is posted in private areas of the service location such as bedrooms, the plan shall also include information explaining how individual's rights of privacy, dignity, respect, and the ability to communicate freely are assured.
- c. Written approval of the system utilized is not a substitution for due process review on behalf of each individual who is served in the setting where the surveillance is present.

### 3.13 **Annual Provider Plan**

3.13.1 In the event the contractor is licensed, certified or accredited for services provided under this contract, the contractor shall develop and submit an annual plan to the Division when trends are identified through the annual information management systems data and/or the provider has been on an Improvement Plan, Critical Status Plan, No Growth or No Referral status in the last 12 months. The annual plan shall include an agency overview, internal assessment as well as information available from the Division various information management systems. With this information, the contractor shall develop outcome-based goals designed to promote quality improvement for the upcoming year.

3.13.2 The plan shall be forwarded to the appropriate Regional Office within 30 days of the mutually agreed upon due date.